

EXHIBIT 13

REDACTED

CONFIDENTIAL

Page 1

1 UNITED STATES DISTRICT COURT
 2 NORTHERN DISTRICT OF ILLINOIS
 3 EASTERN DIVISION

4 DOROTHY FORTH, DONNA BAILEY,)
 LISA BULLARD, RICARDO GONZALES,)
 5 CYNTHIA RUSSO, TROY TERMINE,)
 INTERNATIONAL BROTHERHOOD OF)
 6 ELECTRICAL WORKERS LOCAL 38)
 HEALTH AND WELFARE FUND,)
 7 INTERNATIONAL UNION OF)
 OPERATING ENGINEERS LOCAL 295-)
 8 295C WELFARE FUND, AND)
 STEAMFITTERS FUND LOCAL 439, on)
 9 Behalf of Themselves and All)
 Similarly Situated,)
 10)
 Plaintiffs,)
 11) Civil No.
 vs.) 17-CV-2246
 12)
 WALGREEN CO.,)
 13)
 Defendant.)

14
 15
 16 ** C O N F I D E N T I A L **
 17

18 The video deposition of MICHAEL AMIET, taken
 19 before Richard Derrick Ehrlich, Registered Merit
 20 Reporter, Certified Realtime Reporter, taken
 21 pursuant to the Federal Rules of Civil Procedure, at
 22 Reed Smith, LLP, 10 S. Wacker Drive, Chicago,
 23 Illinois, commencing at 9:00 a.m., on the 20th day
 24 of November, 2019.
 25

CONFIDENTIAL

Page 51

1 MS. COLEMAN: I'll object to the scope to
2 the extent that you're discussing the retail
3 price files versus the PSC price files.

4 MR. GUGLIELMO: I'm just trying to -- he's
5 used the term "retail price," and I think
6 that -- to the extent there's a U & C aspect to
7 that, obviously we have that information. It's
8 been produced. So I don't want to exclude
9 information that's been produced.

10 So you can make your objection. I'm just
11 trying to understand -- I don't want to
12 under-include information that's been produced.

13 MS. COLEMAN: Understood.

14 BY MR. GUGLIELMO:

15 Q So let's start off, maybe divide it into two.

16 You mentioned "retail prices" earlier.
17 What do you mean by "retail prices"?

18 A I mean the prices that what we call a cash
19 paying customer would pay. And so those are
20 individuals who are not using, who are not
21 members of any Prescription Savings Club,
22 they're not using any kind of a third-party
23 discount card, which we can talk more about what
24 that is, or they're not members who have a
25 third-party insurance benefit.

CONFIDENTIAL

Page 52

1 And so these are, from Walgreens'
2 prospective, just members of the general public
3 who walk in, and they will pay a retail price
4 that we have that the next person, who also
5 didn't have any of those three things I
6 mentioned, would pay that same price at that
7 same store on the same day.

8 Q And so the retail price, is that also synonymous
9 with the usual and customary price?

10 MS. COLEMAN: Objection to form.

11 THE WITNESS: "Usual and customary" is a
12 term in our contracts.

13 For purposes of what we're discussing today
14 that's defined in those agreements. So the
15 retail price is how we have defined the usual
16 and customary price in our agreements, but I'm
17 not sure what you mean by synonymous.

18 BY MR. GUGLIELMO:

19 Q So when you're looking for a retail price to
20 charge a customer on a particular day in a
21 particular store for a particular drug, what is
22 Walgreens looking at?

23 What data information are they looking at
24 to determine that?

25 In other words, what price -- where is that

CONFIDENTIAL

Page 53

1 price? Is it the usual and customary price, or
2 is it something else?

3 MS. COLEMAN: Objection to form.

4 THE WITNESS: The price that the pharmacist
5 would charge to a cash customer, the retail

█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]
█ [REDACTED]

15 BY MR. GUGLIELMO:

16 Q And what -- to the extent it's a data element,
17 what is it called?

18 A I don't know.

19 Q Okay. And to the extent there's an NDC code
20 associated with it, what's the NDC code?

21 MS. COLEMAN: Objection to form.

22 THE WITNESS: An NDC code actually refers
23 not to any price. It refers to a particular
24 drug.

25 \\\

CONFIDENTIAL

Page 78

1 to part with something of significant value to
2 that customer in order to be part of your club
3 program, then they're going to use that club
4 program. And so they're going to bring their
5 prescriptions to us even if they have to drive
6 past a CVS to do it. And so that was another
7 reason.

8 Q Any other reasons for charging a membership fee?

9 A Yes. I know that as we were looking at other
10 programs, and as we were thinking about the
11 options for what made the most sense, we wanted
12 to be sure that the PSC club price was
13 distinguished and differentiated from our retail
14 price or our cash price, and that membership fee
15 was an element that insured that.

16 Q And why was it important to Walgreens to
17 distinguish between the PSC club price and the
18 retail price or cash price?

19 A We had a retail price that we set in the way
20 that retailers always set their price. We're
21 looking at the other retail prices of our key
22 competitors in the market, both other national
23 pharmacy chains and grocers en masse, and trying
24 to balance the desire to drive revenue from
25 those purchases with a desire to get as large a

CONFIDENTIAL

Page 79

1 market share of those retail transactions as
2 possible. And so we were setting our retail
3 price levels to optimize that equation, and we
4 wanted to be able to have a different set of
5 prices that we could provide to these
6 underinsured and uninsured price sensitive
7 customers without any impact to that retail
8 price.

9 Q And so is it your understanding that Walgreens,
10 part of the reasons for implementing the
11 membership fee was to allow it to have a
12 different set of prices?

13 MS. COLEMAN: Objection. Form.

14 THE WITNESS: The membership fee helped to
15 insure that the club price that people could
16 only access by actively joining the program,
17 agreeing to the terms and conditions and paying
18 that fee, that that club price would be distinct
19 from the retail price that existed and continues
20 to exist independent of this club price.

21 BY MR. GUGLIELMO:

22 Q And in setting the membership fee, when the PSC
23 was launched in 2008, what was the membership
24 fee?

25 A It was \$20 for an individual or \$35 for a family

CONFIDENTIAL

Page 215

[illegible]

[illegible]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]
[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] [REDACTED]

[REDACTED]
[REDACTED]
 [REDACTED] [REDACTED]
 [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CONFIDENTIAL

Page 233

1 (Exhibit No. 81 marked.)

2 MR. LEIB: Counsel, you've marked this
3 document before. Do you happen to know the
4 prior document number that you used for this
5 document?

6 MR. GUGLIELMO: I do not believe I've
7 marked this document before.

8 MS. COLEMAN: I don't think you have. I
9 think Jason has.

10 MR. GUGLIELMO: Okay. To the extent it was
11 marked as a prior exhibit, we can substitute
12 that number here rather than duplicating
13 efforts. I did not know it was a previously
14 marked document.

15 MR. LEIB: Okay.

16 THE WITNESS: Okay.

17 BY MR. GUGLIELMO:

18 Q Have you seen this document marked as Exhibit
19 81?

20 A I have, yes.

21 Q [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Veritext Legal Solutions
www.veritext.com

CONFIDENTIAL

Page 237

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

12 Q Let's mark as Exhibit 82, a document bearing

13 Bates WALG_FORTH_00180170 through 188.

14 (Exhibit No. 82 marked.)

15 THE WITNESS: Okay.

16 BY MR. GUGLIELMO:

17 Q Mr. Amiet, have you had a chance to take a look

18 at the document I've had marked as Exhibit 82?

19 A I have.

20 Q Do you recognize this document?

21 A Yes.

22 Q What is it?

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED]

CONFIDENTIAL

Page 285

CERTIFICATE

I, Richard D. Ehrlich, a Certified Shorthand Reporter of the State of Illinois, CSR License No. 084-4018, do hereby certify that I stenographically reported the proceedings had at the video deposition, as aforesaid, and that the foregoing transcript is a true and accurate record of the proceedings had therein.

IN WITNESS WHEREOF, I do set my hand at Chicago, Illinois, this 13th day of December, 2019.



Richard D. Ehrlich
Certified Shorthand Reporter
License No. 084.4018